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Counsel to NuStar Terminals Marine Services, N.V.

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

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In re

Chapter 15

O.W. BUNKER GERMANY GmbH,

Case No. 15-13018-smb

Debtor.
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**STATEMENT OF NUSTAR TERMINALS MARINE SERVICES, N.V.
REGARDING CROSS-MOTION TO WITHDRAW BANKRUPTCY REFERENCE
PURSUANT TO 28 U.S.C. § 157(d)**

NuStar Terminals Marine Services, N.V. (“NuStar”) respectfully states as follows:

1. NuStar is a defendant in a civil action styled *Bonny Gas Transport Ltd. v. O.W. Bunker Germany GmbH, et al.*, Case No. 14-cv-9542 (vec) (the “Bonny Proceeding”) pending in the United States District Court for the Southern District of New York (the “District Court”) before Judge Caproni.
2. On January 25, 2016, the Administrator for O.W. Bunker Germany filed a motion in the Bonny Proceeding for an order “confirming” the reference of such civil action to the United States Bankruptcy Court for the Southern District of New York [Bonny Proceeding, ECF

No. 119] (the “Motion to Confirm the Reference”). A copy of the Motion to Confirm Reference is attached hereto as **Exhibit A**.

3. On February 8, 2016, NuStar responded to the Motion to Confirm the Reference by filing its Memorandum of Law in Opposition to Motion to Confirm Reference to U.S. Bankruptcy Court for the Southern District of New York [Bonny Proceeding, ECF No. 123] (the “Opposition Brief”), a copy of which is attached hereto as **Exhibit B**, along with a Notice of Cross-Motion [Bonny Proceeding ECF No. 122], a copy of which is attached hereto as **Exhibit C**, arguing that (a) the Motion to Confirm Reference should be denied or, alternatively, (b) NuStar’s cross-motion to withdraw the reference should be granted because the conditions for both mandatory and permissive withdrawal are satisfied in the Bonny Proceeding.

4. Simply put, NuStar argued that the District Court should decline to refer the Bonny Proceeding to the Bankruptcy Court since the grounds for mandatory and permissive withdrawal of the reference were present.¹

5. In a Supplemental Opposition to NuStar’s Cross-Motion [Bonny Proceeding ECF No. 154], a copy of which is attached hereto as **Exhibit D**, the Administrator for OW. Bunker Germany stated that NuStar should have filed its Notice of Cross Motion to Withdraw the Reference in this Court, so that the Clerk of this Court could then transmit such motion to the District Court under Local Rule 5011-1. In response, NuStar filed its Reply Memorandum [Bonny Proceeding ECF No. 156], a copy of which is attached hereto as **Exhibit E**, addressing these and other arguments.

¹ Certain other defendants filed similar pleadings and cross-motions to withdraw the reference.

6. While the requirement that a filing of the Notice of Cross-Motion be made in this Court before the proceeding has even been referred is not at all clear, NuStar nonetheless hereby files this statement and will pay the \$176.00 filing fee required under Local Rule 5011-1.

7. Because the Bonny Proceeding is already pending in the District Court before Judge Caproni, there does not appear to be a need for the Clerk of the Bankruptcy Court to issue a stand-alone District Court civil action number as would be required for a motion to withdraw the reference of an adversary proceeding then pending in the Bankruptcy Court. There is no pending adversary proceeding in the Bankruptcy Court and the Bonny Proceeding was commenced and is pending in the District Court under Civil Action No. 14-cv-9542. In the event that the Clerk of Bankruptcy Court requires that a new District Court action number be created, NuStar of course will insure that the matter is sent to Judge Caproni as related to the pending Bonny Proceeding.

Dated: March 8, 2016

NORTON ROSE FULBRIGHT US LLP

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